

STATE OF MICHIGAN  
COURT OF APPEALS

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

TREANDIS MARQUA JAMISON,

Defendant-Appellant.

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UNPUBLISHED

April 24, 2014

No. 312460

Oakland Circuit Court

LC No. 2012-241693-FC

Before: BORRELLO P.J., and WHITBECK and K. F. KELLY, JJ.

PER CURIAM.

A jury convicted defendant of six counts of assault with intent to commit murder, MCL 750.83; six counts of possession of a firearm during the commission of a felony, MCL 750.227b; one count of conspiracy to commit first-degree murder, MCL 750.157a; MCL 750.316(1)(a); and one count of carrying a concealed weapon, MCL 750.227. Defendant appeals as of right. For the reasons set forth in this opinion, we affirm defendant's convictions but remand for correction of the judgment of sentence issued on resentencing.<sup>1</sup>

Defendant attended a Christmas party at a roller skating rink with 300 other guests. During the party, a brawl began between two different groups of skaters, one group including defendant. Rink security ejected defendant, his codefendant, and one other individual for participating in the brawl. A second brawl subsequently erupted on the skating rink and the security personnel left the entrance unsupervised. Security footage from several cameras in the roller skating rink showed defendant, his codefendant, and the other individual reenter the roller skating rink during this time. They walked down the hallway concealing objects in their hands, and when they reached the entrance to the rink itself, where the second brawl was occurring, they

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<sup>1</sup> Although defendant does not raise the issue, we note a discrepancy from the November 9, 2012 resentencing judgment which sentences defendant to his natural life without parole, but also states in the court recommendation section that defendant is sentenced to his natural life with potential for parole. Conspiracy to commit first-degree murder is a parolable life offense. MCL 791.234(6); *People v Jahner*, 433 Mich 490; 446 NW2d 151 (1989). Therefore we remand to correct this discrepancy by deleting the erroneous language of "NAT LIFE W/O PAROLE" from the judgment of sentence.

revealed firearms and fired through the entryway into the rink where 200 to 225 people were located at the time. Six individuals received grazing wounds to their arms, legs, or back; one individual was shot directly in the chest. Defendant's claim on appeal is that the prosecutor introduced insufficient evidence for a reasonable jury to conclude that defendant acted with the requisite intent to kill to sustain a guilty verdict for assault with intent to commit murder and conspiracy to commit first-degree murder.

A challenge to the sufficiency of the evidence is reviewed de novo on appeal. *People v Hawkins*, 245 Mich App 439, 457; 628 NW2d 105 (2001). When considering a challenge to the sufficiency of the evidence, this Court reviews "the evidence in a light most favorable to the prosecutor to determine whether any trier of fact could find the essential elements of the crime were proven beyond a reasonable doubt." *People v Robinson*, 475 Mich 1, 5; 715 NW2d 44 (2006).

The prosecution need not present direct evidence linking a defendant to the crime in order to provide sufficient evidence to support a conviction; "[c]ircumstantial evidence and reasonable inferences arising from the evidence may constitute satisfactory proof of the elements of the offense." [*People v Wolford*, 189 Mich App 478, 480; 473 NW2d 767 (1991).] A fact-finder may infer a defendant's intent from all the facts and circumstances. *Id.* "Questions of credibility are left to the trier of fact and will not be resolved anew by this Court." *People v Avant*, 235 Mich App 499, 506; 597 NW2d 864 (1999). Furthermore, "[i]t is for the trier of fact, not the appellate court, to determine what inferences may be fairly drawn from the evidence and to determine the weight to be accorded those inferences." *People v Hardiman*, 466 Mich 417, 428; 646 NW2d 158 (2002). [*People v Kissner*, 292 Mich App 526, 534; 808 NW2d 522 (2011).]

This Court views the evidence in a light most favorable to the prosecution to determine whether a reasonable juror could conclude that the prosecution proved the essential elements of the charged offense beyond a reasonable doubt. *People v Jackson*, 292 Mich App 583, 587; 808 NW2d 541 (2011). This Court will defer to the jury throughout the de novo review by drawing all reasonable inferences and credibility choices in support of the jury's verdict. *People v Nowack*, 462 Mich 392, 400; 614 NW2d 78 (2000).

The elements of assault with intent to commit murder are (1) an assault, (2) with an actual intent to kill, (3) which, if successful, would make the killing murder. *People v Brown*, 267 Mich App 141, 147-8; 703 NW2d 230 (2005). Defendant was tried as a principal and an aider and abettor. In order to be convicted under an aiding and abetting theory, the prosecution must show (1) the crime charged was committed by the defendant or some other person, (2) the defendant performed acts or gave encouragement that assisted the commission of the crime, and (3) the defendant intended the commission of the crime or had knowledge that the principal intended its commission at the time he gave aid and encouragement. *People v Moore*, 470 Mich 56, 67-68; 679 NW2d 41 (2004). With respect to the conspiracy charge, under MCL 750.157a, a conspiracy exists when "[a]ny person . . . conspires together with 1 or more persons to commit an offense prohibited by law, or to commit a legal act in an illegal manner . . . ." "Conspiracy is a specific-intent crime, because it requires both the intent to combine with others and the intent to accomplish the illegal objective." *People v Mass*, 464 Mich 615, 629; 628 NW2d 540 (2001).

A conspiracy to commit first-degree murder in Michigan requires proof that the conspirators planned, with an intent to kill the victim and this premeditation and deliberation may be inferred. *People v Hammond*, 187 Mich App 105, 107-108; 466 NW2d 335 (1991).

A jury may infer an intent to kill if a defendant uses a dangerous weapon in the commission of an offense. *People v Taylor*, 422 Mich 554, 568; 375 NW2d 1 (1985), rev'd on other grounds 422 Mich 554 (1985). "The intent to kill may be proved by inference from any facts in evidence." *People v Jackson*, 292 Mich App 583, 588; 808 NW2d 541 (2011). "The requisite intent [to kill] may be gleaned from the nature of the defendant's acts constituting the assault; the temper or disposition of mind with which they were apparently performed, whether the instrument and means used were naturally adapted to produce death, his conduct and declarations prior to, at the time, and after the assault, and all other circumstances . . . ." *Brown*, 267 Mich at 150 n 5. Direct evidence itself is unnecessary, whereby a jury may infer an intent to kill from evidentiary facts at trial. *People v Lawton*, 196 Mich App 341, 350; 492 NW2d 810 (1992).

The evidence submitted at trial was sufficient for a reasonable jury to conclude that the prosecution proved that defendant committed an assault with the intent to murder and conspiracy to commit first-degree murder beyond a reasonable doubt. Defendant was seen by the jury in photographs and on surveillance video discharging a firearm into the crowd of people at the Rolladium. We begin our analysis of the evidence by noting that it is not disputed that a shooting occurred at Rolladium. Quintin Hardiman, a security officer at the Rolladium, testified that defendant, Ingram<sup>2</sup>, and German were enraged after being "jumped" by the other party members during the first brawl, which necessitated Hardiman throwing them out of the Rolladium. The prosecution presented a potential motive when Hardiman testified that Ingram was "puffing" and complaining about being "jumped" as he attempted to reenter the Rolladium holding a revolver following the ejection for participating in the first brawl that night. *People v Fisher*, 449 Mich 441, 453; 537 NW2d 577 (1995), reh den 450 Mich 1208 (1995) (In cases in which the proofs are circumstantial, evidence of motive is particularly relevant). Although no direct testimony or evidence of defendant's state of mind at that moment exists, the jury could reasonably infer that defendant shared the same vengeful state of mind as Ingram because defendant was also attacked during the brawl and sought revenge along with Ingram and German. The prosecution's case supports this inference through testimony and photographs that defendant, along with Ingram and German, returned to the party after the expulsion from the party and defendant is depicted with a firearm after his return.

The jury could also reasonably conclude defendant had an intent to kill from defendant's act of shooting into a crowd as shown in the security photographs presented at trial. The prosecutor presented photographs at trial which show defendant attempting to hide an object held in his right hand from individuals in the hallway as he walks to the entrance of the skating rink

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<sup>2</sup> Defendant's codefendant in this trial was Cheyenne Ingram, whose appeal in Case No. 312656 has been submitted with this appeal. It is unknown if the third defendant, Robert German, has been brought to trial.

before the shooting. Significantly, the jury also viewed photograph 39, which shows defendant, Ingram, and German shooting from the entrance into the skating rink, and photograph 40, which shows defendant shooting into the skating rink. Most importantly, photographs 41 and 42 clearly and unmistakably show defendant holding a handgun in his right hand and shooting into the crowded skating rink as Ingram and German run down the hallway. These photographs clearly show defendant possessed the necessary intent to kill. Moreover, at the very least, defendant knew about codefendant's intent to kill for accomplice liability purposes given the photographic evidence of defendant's participation in the shooting. The testimony at trial established that there were at least 300 individuals at the party that night, and that around 200 to 225 were at the party when the shooting occurred. Defendant argues that because either the shots appear to be ricochet shots or shots directed at the floor causing only non-deadly injuries to six individuals, defendant somehow lacked an intent to kill. However, Michigan law clearly allows a jury to infer that the use of a lethal weapon constitutes an intent to kill. *People v Ray*, 56 Mich App 610, 615; 224 NW2d 735 (1974); see also, *People v Garcia*, 36 Mich App 141, 142; 193 NW2d 187 (1972). Surveillance video clearly depicts defendant as he reentered the building with a deadly weapon, concealed it while walking down the hallway, and opened fire with Ingram and German into a crowd of 200 to 225 people. The facts plainly allow for the reasonable conclusion that no matter where the shots landed, they were fired with an intent to kill.

Defendant also argues there is no direct evidence to support the prosecutor's contentions at trial that defendant was present at the Rolladium that night or that the object in defendant's hands was a functioning weapon. Identity is an essential element of every crime. *People v Oliphant*, 399 Mich 472, 489; 250 NW2d 443 (1976). This Court must view the evidence in a light most favorable to the prosecution and make all reasonable inferences in support of the jury's verdict, and the evidence presented identifying defendant at the Rolladium and that he was holding a weapon on film at the same time the shooting occurred supports the jury's inference in coming to the verdict. Several witnesses identified defendant in the security photographs and photographs 40, 41, and 42 show defendant operating what clearly appears to be a firearm. There are no contrary facts that dispel the jury's conclusion that the prosecution presented sufficient facts identifying the defendant that night and his use of a deadly firearm.

Additionally, the prosecutor presented sufficient facts and circumstances at trial for a reasonable jury to convict defendant for conspiracy to commit first-degree murder. Defendant's actions directly before the shooting occurred clearly show a mutual understanding between defendant, Ingram, and German to shoot at the individuals still at the party in revenge for the earlier brawl. Defendant and codefendants returned with firearms after being initially ejected, they walked down the hallway of the Rolladium, and they all stopped at the entrance of the skating floor and began shooting at the same time. All of these facts together create a sufficient foundation for a reasonable jury to determine that defendant and codefendants specifically intended on shooting at the other individuals when they entered the building, thereby creating an unlawful agreement. See *People v Justice (After Remand)*, 454 Mich 334, 347; 562 NW2d 652 (1997) (direct proof of a conspiracy is not essential for a conviction; rather proof may be derived from the circumstances, acts and conduct of the parties).

Finally there was evidence from defendant of his guilt. While incarcerated, defendant wrote several handwritten letters containing his signature. He addressed one letter to his mother

writing, “I just got tired of people shooting at me. . . If I get life I probably deserve it. . . I let my family down in the worst way. . . I was a bad person.”

Considered as a whole, and viewed in the light most favorable to the prosecution, the evidence was sufficient to establish defendant’s guilt on all convictions and accordingly, defendant’s sufficiency of the evidence claim fails.

We affirm defendant’s convictions, but remand for correction of the judgment of sentence.

/s/ Stephen L. Borrello  
/s/ William C. Whitbeck  
/s/ Kirsten Frank Kelly